

THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE D.APPA RAO

WRIT APPEAL NO.158 of 2006

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15th February 2006

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 02.09.2005 in W.P.NO.24919 OF 2002 on the file of the High Court.)

Between:

The Prakasam District Cooperative Central Bank Ltd.,
rep.by its General Manager.

...APPELLANT

AND

B.Koteswara Rao, S/o.Late Thataiah,
R/o.H.No.9/95, Parchur Road,
Inkolu, Prakasam District.

...RESPONDENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE D.APPA RAO

WRIT APPEAL NO.158 OF 2006

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JUDGMENT: (Per the Hon'ble Mr Justice B.Prakash Rao)

Heard both the sides.

At their request, the Writ Appeal itself is taken up for disposal at the admission stage.

The appellant/management filed this Writ Appeal seeking to assail the order dated 02.09.2005 in Writ Petition No.24919 of 2002 filed by the respondent herein, wherein the respondent sought a declaration of the action of the appellant in not releasing the retirement benefits to him as illegal and arbitrary with a consequential direction to the appellant to release the same to him.

The main challenge made by the respondent is that having regard to the fact that there is no specific provision or bylaw contemplating to initiate proceedings for any

disciplinary action subsequent to the retirement, the appellant is not empowered to withhold the benefits as such. The learned Single Judge, following the judgment dated 23.11.2004 in Writ Appeal No.1737 of 2004, allowed the Writ Petition and directed the appellant to release the terminal benefits to the respondent to which he is entitled.

Considering the submissions made on either side and on perusal of the material available on record, it is seen that, admittedly, there is no bylaw or specific provision for any disciplinary action to be taken subsequent to the retirement of an employee. In view of the same, it is now well settled that no action is sustainable against the employee after his retirement. We are in agreement of the finding of the learned Single Judge. However, the observation of the learned Single Judge that no counter affidavit is filed appears to be incorrect since the appellant had already filed the counter affidavit.

Be that as it may, on a reading of the pleadings of both the sides, there is nothing on record to show that there is any statutory sanction behind for taking any disciplinary action subsequent to the retirement. Hence, we do not find any merits in this appeal.

The Writ Appeal is accordingly dismissed. No costs. The appellant is directed to pay all the terminal benefits to the respondent to which he is entitled within a period of four (4) weeks from today.

(B.PRAKASH RAO, J)

(D.APPA RAO, J)

15th February 2006

RRB

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